

Position Paper

European Commission Mobility Package (1st part)

The European Commission Mobility Package proposals, covering many operational and administrative aspects of commercial road freight and passenger transport, represents the single biggest legislative change to how the industry is regulated and is therefore of key importance to IRU and its members. In coordination with its member associations from every EU Member State, IRU has developed a comprehensive set of positions and suggestions that reflect the practical experience of the industry and a deep understanding of what is required to improve the efficiency and profitability of the sector, as well as its contribution to job creation and economic growth as part of the EU's economic well-being.

Commission proposal COM(2017)0275 on the modification of the rules on the charging of vehicles for the use of certain road infrastructures

IRU opposes:

- any increase of the fiscal burden on commercial road transport operators. IRU has evidence that, within the existing Eurovignette framework, heavy goods vehicles already amply cover their infrastructure and external costs via existing direct taxes, charges and duties. The only result of making commercial road transport artificially more expensive will be to deprive road freight and passenger transport operators from the investment power necessary to renew their fleets with state of the art, cleaner and more efficient vehicles.
- the inclusion of buses and coaches in the framework of the Eurovignette Directive, in that it would penalise the most sustainable alternative to individual motorised mobility, rather than encouraging it.

Road pricing can play a role in incentivising cleaner, more efficient road transport operations only if all charging revenues are reinvested in the road transport sector, via measures for the deployment of cleaner and safer vehicle technology, alternative fuel and ITS infrastructure, training and the building of secure and equipped parking areas. Externalities must be tackled at source and emissions effectively reduced, rather than merely internalised via fiscal means.

IRU proposes:

- to exempt heavy duty vehicles from any congestion charging scheme. Congestion costs are already borne by the commercial road transport sector itself in terms of loss of resources, time and additional costs and taxes. Any form of additional charging for congestion is considered by IRU as an unacceptable double payment and a penalty. In the passenger transport sector, every bus and coach already contributes to mitigating the adverse effects of congestion and making the European mobility system more sustainable.
- to guarantee a fiscal level playing field among competing transport modes, taking into account all relevant taxes, charges and duties. IRU also suggests that EU Member States retain the freedom to use tolls or vignettes and to choose whether to impose external cost charges on road users or not.

Commission proposal COM(2017)281 on the modification of the EU rules on access to the profession of road transport operator

IRU welcomes the further clarifications which have been introduced but considers that this has not gone far enough, especially in the provisions relating to the four criteria which have to be complied with in order to obtain access to the profession.

Making the rules on “establishment” stricter may not reduce the number of letterbox companies being created unless this is accompanied by a solid political commitment from Member States to enforce the rules, whereby more efficient cooperation and information exchange between the control authorities in individual Member States and between the Member States will be essential.

Stricter rules on “good repute” are of equal concern. Compliance with business-related rules such as posting of workers, taxation and contractual obligations should not count in the evaluation of the good repute of an undertaking as those rules do not apply to all road transport undertakings for hire and reward. IRU also calls for the obligatory introduction of aligned rehabilitation procedures in every Member State.

A wider range of means should be made available to prove compliance with conditions on “financial standing”.

A full implementation of the European Electronic Register for Road Transport Undertakings (ERRU) is fully supported in order to make enforcement more efficient. Intelligence-led enforcement based on risk-rating is equally supported but the systems of the Member States should be further aligned.

The introduction of access to the profession rules for undertakings using vehicles below 3.5 tonnes in road freight transport for hire and reward is positive, but all four criteria should be applied and the rules and their enforcement should especially target undertakings using such vehicles for long distance cross-border operations. Undertakings operating mixed fleets should not be forced to apply heavy goods vehicle rules to their entire fleet.

IRU cannot however support the extension of the scope of the definition of “non-commercial passenger transport”. Allowing more “non-commercial passenger transport” would not only increase the competitive pressure on commercial transport operators but would above all jeopardise passengers’ safety.

Commission proposal COM(2017)281 on the modification of the EU rules on access to the EU road haulage market

IRU considers that, at this stage, the EU road haulage market should not be further opened while additional market restrictions should not be introduced either. The current market access rights should be maintained and the modification of Regulation (EC) No 1072/2009 should focus on a further clarification of the existing rules and on making their enforcement more efficient.

The clarification of the cabotage definition is welcomed but more could have been done by clarifying the start of a cabotage operation. The use of electronic documents as evidence for cabotage is very much supported. IRU calls for the use of electronic consignment notes, such as e-CMR, as the control document for cabotage and to introduce an obligation to have the cabotage evidence always readily on board the vehicle. More work should be undertaken to make the different electronic consignment note platforms interoperable in order to facilitate the exchange and access to information for enforcement purposes.

The introduction of a minimum number of cabotage checks is not supported because it would be very difficult for enforcement inspectors to actually determine at the roadside which vehicles could be undertaking cabotage operations. A more intelligence-led approach to cabotage enforcement should be examined. The current Commission proposal could lead to a large number of vehicles, foreign registered as well as vehicles registered in the host Member State, being stopped for cabotage checks without any concrete results in terms of reduction of abuse of the cabotage rules because the wrong vehicles and operators are being targeted.

IRU also supports the introduction of rules on shared liability as a positive step in the right direction for a potential wider application.

Commission proposal COM(2017)278 on sector-specific rules for the posting of workers in the road transport sector

The EU general posting of workers rules, as applied today by EU Member States, impose a disproportionate and unjustified administrative burden on commercial road transport operators and do not take into account the highly mobile nature of road freight and passenger transport operations. It should be avoided that the application of the posting of workers in road transport becomes a barrier to the proper functioning of the EU Internal Market and the operation of normal international transport practices. If it would be decided to apply posting of workers rules to road transport operations, it should be done via specific road transport rules, which should at least aim to minimise the administrative burden for transport operators and facilitate access to adequate information on how transport operators should apply the rules to drivers for their time spent abroad. Therefore, the Commission's *lex specialis* proposal is a positive step forward but it is not sufficient.

For **road freight transport**, in addition to addressing issues such as the administrative burden, the exchange of information between Member States, the provision of information to transport operators and enforcement, the *lex specialis* should answer key questions such as whether posting of workers should apply to road freight transport, and if so, to which types of services and how.

IRU also underlines that **road passenger transport** companies will especially be affected by these measures that primarily aim at solving problems (such as labour imports) occurring in the freight sector. IRU therefore requests that further derogations for the passenger transport sector are introduced.

In order to reflect the difference between services that correspond to fair and traditionally accepted travel practices on the one hand, and the unjustified permanent presence of foreign drivers and coach operators on a national territory on the other hand, IRU proposes:

- to exempt from posting of workers rules all international and domestic regular services, all international occasional services, transit, local excursions, as well as "fly-and-drive" type multi-modal travel¹ models.
- to apply posting of workers rules only to drivers engaged in cabotage operations by non-resident carriers in the framework of an occasional service on two cumulative conditions:
 - (1) in the absence of an incoming or outgoing transport operation, and
 - (2) where the coach operator and the client – group of passengers or professional subcontractor – reside/are established in two different countries².

¹ A "fly-and-drive" travel model involves a pre-constituted group of travellers from country A being flown (or transported by train) to country B by e.g. a travel agent or coach operator established in country A. At arrival in country B, a driver and coach operator from country A will transport the group within country B for the length of their stay.

² This is the case when coach drivers and operators from country B provide domestic occasional transport services on the territory of country A, either on behalf of a subcontractor or directly to a

Commission proposal COM(2017)278 for a revision of the enforcement rules

IRU supports modern, harmonised and intelligence-led enforcement across the EU and its Member States. It is a priority for IRU to ensure, within the current revision of Directive 2006/22/EC, that an industry-friendly and fair competitive enforcement framework is created, coupled with a simplified and more aligned interpretation and application of rules across the board.

IRU, therefore, fully supports enhanced cooperation between Member States and the introduction of risk-rating, including establishing a common formula for risk-rating, to focus enforcement resources on frequent offenders rather than on the large majority of law abiding companies.

Yet, IRU strongly opposes the Commission proposal to check working time at the roadside as totally impractical and not fit for purpose. For IRU, working time must be checked at premises only.

Commission proposal COM(2017)277 on the modification of the driving and rest time rules and the rules on tachographs

Driving and rest time rules are an essential piece of legislation, to ensure safety on European roads and fair competition among operators. For IRU, the rules must be clear and enforceable, guaranteeing required operational flexibility for operators, whilst at the same time preventing an increase in the administrative burden and rules-induced stress for both operators and drivers.

IRU, therefore, requests the introduction of a genuine four-week reference period (28 days), with compensation for reduced weekly rests to be taken before the end of the fourth week. Driving and rest time rules should incentivise operators to organise the work of drivers in such a way to facilitate their return to the country of establishment or to take longer weekly rests at an appropriate location of his/her choice.

Considering the obvious lack of sufficient high quality parking areas across the EU, IRU urges the Commission to examine, in a dedicated study, the provision of appropriate parking facilities in all EU Member States, as well as to regularly publicly report on the evolution of the situation. IRU also calls for support for initiatives (including coming from the private road transport sector) to increase the number of parking facilities, their security and their comfort levels.

IRU strongly urges European legislators to recognise the specific nature of the coach tourism sector, as compared to other road transport activities. Specific derogations must be introduced to meet the specific requirements of this tourist-driven business. These include an appropriate and customer-friendly 12-day derogation for continuous driving days and the increase of the daily spread-over for a drivers duty time to 16 hours (instead of the current 15 hours) twice per week. There should also be a longer reference period (beyond four weeks) for compensation of reduced weekly rests to meet the seasonal requirements of the coach tourism industry, including by reducing the accumulated driving time within the period of four weeks.

group of passengers, that are not established or reside in country B. In this case, contrary to the "fly-and-drive" model, there is no pre-existing link of nationality, establishment or residence between the coach operator and its client (the subcontractor or the group of passengers).

Commission proposal COM(2017)282 on the modification of the EU rules on hired vehicles without driver

IRU recognises that an extension of the possibilities to hire road freight transport vehicles and use them for various operations could accelerate the market uptake of the latest and greenest technologies and therefore IRU supports the Commission proposal. It should be noted that there could be an increase in competitive pressure and therefore IRU suggests that this should be monitored and reported on by the Commission.

The use of hired vehicles without driver should be limited to a period of four months per year. Discrimination between the use of owned and hired vehicles should be avoided. It is also considered essential for enforcement purposes to include information on the use of hired vehicles without driver in the national electronic register.

Commission proposal COM(2017)279 for a Regulation on the monitoring and reporting of CO₂ emissions from and fuel consumption of new HDVs

IRU welcomes the Commission proposal for the monitoring and reporting of VECTO fuel consumption data as further transparency will enable operators to make better informed purchasing decisions. IRU supports this proposal as an integral step in the process of establishing HDV CO₂ emissions reduction standards.

IRU proposes that all data parameters are submitted by manufacturers and national authorities to the Commission so that they can carry out independent verification. This will be essential for operators in order to ensure that the data is reliable and credible. Data parameters sensitive to competition should not be made available to the general public but only on request to third parties.